

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #3	CCRB Case #: 201708321	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 10/02/2017 11:30 PM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 4/2/2019	EO SOL 4/2/2019	
Date/Time CV Reported Tue, 10/03/2017 12:20 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/10/2017 11:20 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Desposito	2001	954726	075 PCT
2. POM Frank Ingrao	31014	946495	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andre Ohara	09483	961031	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Desposito	Force: Police Officer Michael Desposito struck § 87(2)(b) with a vehicle.	§ 87(2)(g), § 87(4-b)
B.POM Frank Ingrao	Force: Police Officer Frank Ingrao struck § 87(2)(b) with a blunt instrument.	§ 87(2)(g), § 87(4-b)
C.POM Frank Ingrao	Abuse: Police Officer Frank Ingrao threatened § 87(2)(b) with the use of force.	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)

Case Summary

On October 3, 2017, § 87(2)(b) filed the following complaint over the telephone with the Internal Affairs Bureau (IAB). On October 10, 2017, this complaint was received by the Civilian Complaint Review Board (CCRB) under IAB log #17-38590 (**01 Board Review**).

On October 2, 2017, at approximately 11:30 p.m., § 87(2)(b) was standing in front of § 87(2)(b) in Queens § 87(2)(b) when PO Michael Desposito, of the 75th Precinct, arrived in an unmarked van along with PO Frank Ingrao and PO Andre Ohara, also of the 75th Precinct, and struck § 87(2)(b) with his vehicle (**Allegation A: Force, § 87(2)(g)**). As PO Ingrao exited the police vehicle, he struck § 87(2)(b) with the vehicle door, causing § 87(2)(b) to fall to the ground (**Allegation B: Force, § 87(2)(g)**). § 87(2)(b) ran and the officers pursued him on foot and in the vehicle. § 87(2)(b) was apprehended, placed into their vehicle, and driven back to the original incident location. There, PO Ingrao threatened to use a Taser against § 87(2)(b) (**Allegation C: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) was arrested for § 87(2)(b).

There is no video evidence in regards to this case.

This case was originally assigned to Investigator Kobi Bordoley and was reassigned to Investigator Tessa Yesselman upon Inv. Bordoley's departure from the agency.

Findings and Recommendations

Allegation (A) Force: Police Officer Michael Desposito struck § 87(2)(b) with a vehicle.

Allegation (B) Force: Police Officer Frank Ingrao struck § 87(2)(b) with a blunt instrument.

§ 87(2)(b) stated that he asked his brother's friend, who he did not know, if he could sit on his motorcycle. § 87(2)(b) put the helmet on and straddled the motorcycle. The keys were in the ignition, but the vehicle was off, and the kickstand was down. § 87(2)(b) had his left hand on the front handlebar and was holding his phone in his right hand when he noticed an unmarked black van drive towards him at approximately 10 to 15 miles per hour. The van had not activated its lights or sirens. The van turned abruptly towards § 87(2)(b) so that the front right bumper of the van hit against the front wheel of the motorcycle at an angle. The front passenger door of the unmarked van, which was still in motion, opened and made contact with the left side of § 87(2)(b)'s left leg, and his left hand, mostly on his pinky finger. The door hit § 87(2)(b) with such force that he "flew" approximately four feet onto the curb, falling and sustaining scrapes to his right side, and both knees and elbows. The motorcycle did not land on him, but fell onto its side as well. The van moved forward a little after making contact with § 87(2)(b) and then came to a stop (**05 Board Review**).

§ 87(2)(b)'s phone statement (**04 Board Review**) was generally consistent with his in-person statement except where noted. The van's door struck § 87(2)(b)'s left arm, hand, and leg. The van was partially on top of the motorcycle following the impact and after being hit by the door, § 87(2)(b) fell as the motorcycle fell on top of his right leg.

§ 87(2)(b) the mother of § 87(2)(b)'s half-brother, stated that when the police vehicle arrived, § 87(2)(b) was straddling the motorcycle, buckling the helmet on to his

head. The police vehicle pulled in front of § 87(2)(b) so that it was stopped perpendicular to § 87(2)(b) on the motorcycle. When PO Ingrao opened the passenger door, he pushed the door open. The door made contact with the front, handlebar area of § 87(2)(b)'s motorcycle, causing the motorcycle to fall over, making contact with § 87(2)(b)'s right leg. § 87(2)(b) also fell to the ground **(02 Board Review)**.

§ 87(2)(b)'s boyfriend, stated that he observed § 87(2)(b) begin to mount a motorcycle that was parked approximately six inches from the curb. As § 87(2)(b) mounted the motorcycle, a police vehicle driven by PO Desposito swerved in front of the motorcycle, blocking § 87(2)(b) from moving forward. While the police vehicle was still in motion, PO Ingrao opened the rear passenger door. § 87(2)(b) was struck in his left shoulder by the door. § 87(2)(b) "hopped" off the motorcycle, as the motorcycle fell over on top of him **(03 Board Review)**.

The other witnesses were unable to be contacted or identified.

PO Ingrao stated that while PO Desposito was driving, PO Ingrao noticed a stationary motorcycle parked on the sidewalk with its license plate obstructed. PO Ingrao recalled that § 87(2)(b) was near the motorcycle but did not recall whether he was walking towards it or seated on it. The motorcycle was not in motion; however, PO Ingrao did not recall whether the lights on the motorcycle were on or whether the exhaust was emanating from the vehicle. The officers approached the motorcycle as it had committed a Vehicle Traffic Law (VTL) violation for having an obstructed license plate and for being on the sidewalk. The police van approached the motorcycle at an angle and by the time they were adjacent to the motorcycle, § 87(2)(b) was sitting on the motorcycle, not wearing a helmet, holding the keys in the ignition, moving one of his feet up and down in an attempt to start the motorcycle. Just as the van pulled up next to the motorcyclist, § 87(2)(b) dismounted the motorcycle on its right side, away from the street and let go, which caused the motorcycle to fall on its side, also away from the street. § 87(2)(b) never fell off of his feet and at no point was he lying on the ground. PO Ingrao initially stated that once § 87(2)(b) dismounted the motorcycle, he opened his door to pursue him. He then stated that he began opening his door as § 87(2)(b) dismounted the motorcycle, but he did not believe that his door made contact with the motorcyclist, based on the fact that he estimated that his door was two feet away from where the motorcycle was on the sidewalk. He did not feel any resistance to his door **(08 Board Review)**.

PO Desposito stated that he first observed § 87(2)(b) seated on the motorcycle because he was waving his arms frantically and did not appear to know how to ride a motorcycle. PO Desposito then further observed that the motorcycle's license plate was bent up, which constituted a VTL infraction, for improper display of plates. PO Desposito then drove the police vehicle in front of the motorcycle, to conduct a stop of the motorcycle. (A vehicle stop is not pleaded because § 87(2)(b) was arrested and charged with the VTL violation in which he was stopped for). PO Desposito angled the van approximately 45 degrees to the curb, and stopped the van approximately five to ten feet in front of the motorcycle. The van did not make contact with § 87(2)(b) or the motorcycle. PO Desposito observed PO Ingrao begin to exit from the police vehicle, and then turned to look over his left shoulder to check for oncoming traffic before making his own exit from the vehicle. While checking for oncoming traffic, PO Desposito heard the sound of the motorcycle falling to the ground. PO Desposito looked towards the noise and saw § 87(2)(b) running down the street, away from the police vehicle. The motorcycle fell to the ground towards the sidewalk, and away from the police vehicle. PO Desposito did not see

PO Ingrao's door, or any other door from the police vehicle, make contact with § 87(2)(b) or the motorcycle (**09 Board Review**).

PO O'Hara stated that he observed § 87(2)(b) driving a motorcycle on the sidewalk on § 87(2)(b). § 87(2)(b) drove the motorcycle towards a group of people standing on the sidewalk, and when he reached the group, the people formed a group around it. PO O'Hara heard an officer state that there was a, "guy on the sidewalk." PO O'Hara did not recall any further conversation about stopping § 87(2)(b) or what the officer's intentions were in eventually engaging with § 87(2)(b). PO Desposito drove the police vehicle up to the curb, approximately one foot away from § 87(2)(b) and the motorcycle. PO O'Hara did not recall how the police vehicle was angled in relation to the curb, and did not recall if § 87(2)(b) was on the motorcycle. When PO Ingrao opened the passenger side door of the police vehicle, the motorcycle fell over onto its side, away from the police vehicle. PO O'Hara did not recall if the police vehicle was on or off when PO Ingrao opened the door, but stated that the police vehicle was not in motion when PO Ingrao opened the door (**07 Board Review**).

PO Kenneth Rambert prepared the Medical Treatment of Prisoner Report in regards to § 87(2)(b)'s arrest. PO Rambert wrote that § 87(2)(b) complained of pain to his left leg due to a prior ATV accident. § 87(2)(b) requested an ice pack and refused further medical attention (**12 Board Review**).

§ 87(2)(b)'s medical records show that he complained of left leg pain and left hand pain, as a result of a motor vehicle accident. § 87(2)(b) was prescribed Tylenol (**06 Board Review**).

The command log shows that § 87(2)(b)'s physical condition was described as apparently normal (**13 Board Review**).

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Allegation (C) Abuse of Authority: Police Officer Frank Ingrao threatened § 87(2)(b) with the use of force.

§ 87(2)(b) stated that while he was riding in the police van after being apprehended, PO Ingrao told him that if he did not sit down and be quiet, he would Tase him.

PO Ingrao stated that he did not threaten to Tase § 87(2)(b) and stated that he was not equipped with a Taser, and was not Taser certified at the time of the incident.

PO Desposito and PO O'Hara did not hear PO Ingrao threaten to Tase § 87(2)(b).
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been party (**10, 11 Board Review**).
- PO Desposito has been a member of service for four years and has fifteen previous complaints, and no substantiations § 87(2)(g)
- PO Ingrao has been a member of service for ten years, and has fourteen previous complaints, and no substantiations. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of June 11, 2018, a FOIL request to the Office of the Comptroller was pending.

§ 87(2)(b), § 87(2)(c)

Squad No.: 3

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date